

United States District Court

For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JOSE A. PRADO,) Case No. 5:12-cv-03945-PSG
Plaintiff,)
v.) [PROPOSED] VERDICT FORM
FEDERAL EXPRESS CORPORATION,)
Defendant.)

VERDICT FORM

Part A. AMERICANS WITH DISABILITY ACT (“ADA”)

Failure to Accommodate Disability & Disability Discrimination

1. Did Jose Prado have a disability?

2 Yes _____

No _____

3. Could Prado perform the job duties of a part-time-handler with reasonable accommodation?

4 Yes _____

No _____

5. Was Prado discharged from employment by Federal Express Corporation?

6 Yes _____

No _____

7. Was Prado’s disability a substantial or motivating factor that prompted FedEx to discharge Prado?

8 Yes _____

No _____

If your answer to any or all of Questions 1, 2, 3, or 4, is “No,” then please proceed to Part B. If your answer to Questions 1, 2, 3 and 4 is “Yes,” proceed directly to Question 5.

9. What are Prado’s damages?

10 Loss of wages and benefits to the date of trial: \$ _____

11 Emotional pain and mental anguish: \$ _____

12 TOTAL: \$ _____

13 Please proceed to Question 6.

14. Did a higher management official at FedEx act with malice or reckless indifference to Prado’s federally protected rights?

15 Yes _____

No _____

7. Did FedEx fail to make a good faith attempt to comply with the law by failing to adopt policies and procedures designed to prohibit such discrimination in the workplace?

Yes

No

If your answer to Questions 6 or 7 or both is “No,” then please proceed to Part B. If your answer to Questions 6 and 7 is “Yes,” proceed directly to Question 8.

8. What are Prado's punitive damages? \$ _____

Please proceed to Part B.

Part B. FAIR EMPLOYMENT AND HOUSING ACT (“FEHA”)

Failure to Accommodate

9. Was FedEx an employer?

Yes

No

10. Was Prado an employee of FedEx?

Yes

No

If your answer to either Question 9 or 10, or both, is “No,” then please proceed to Question 17. If your answer to both Questions 9 and 10 is “Yes,” proceed directly to Question 11.

11. Did Prado have a disability?

Yes

No

If your answer to Question 11 is “No,” then please proceed to Question 17. If your answer to Question 11 is “Yes,” proceed directly to Question 12.

12. Did FedEx know of Prado's disability?

V_{esc}

No

If your answer to Question 12 is “No,” then please proceed to Question 17. If your answer to Question 12 is “Yes,” proceed directly to Question 13.

1 13. Was Prado able to perform the essential job duties with reasonable
2 accommodation for his disability?

3 Yes _____

 No _____

4 If your answer to Question 13 is "No," then please proceed to Question 17. If your answer to
5 Question 13 is "Yes," proceed directly to Question 14.

6 14. Did FedEx fail to provide reasonable accommodation for Prado's disability?

7 Yes _____

 No _____

8 If your answer to Question 14 is "No," then please proceed to Question 17. If your answer to
9 Question 14 is "Yes," proceed directly to Question 15.

10 15. Was FedEx's failure to provide reasonable accommodation a substantial factor
11 in causing harm to Prado?

12 Yes _____

 No _____

13 If your answer to Question 15 is "No," then please proceed to Question 17. If your answer to
14 Question 15 is "Yes," proceed directly to Question 16.

15 16. What are Prado's damages (beyond any damages already awarded)?

16 a. Past economic loss:

17 Lost earnings: \$ _____

18 Medical expenses: \$ _____

19 Other past economic loss: \$ _____

20 Total Past Economic Damages: \$ _____

21 b. Future economic loss:

22 Lost earnings: \$ _____

23 Medical expenses: \$ _____

24 Other past economic loss: \$ _____

25 Total Future Economic Damages: \$ _____

26 c. Past noneconomic loss, including
27 physical pain/mental suffering: \$ _____

d. Future noneconomic loss, including physical pain/mental suffering: \$ _____

TOTAL: \$ _____

Please proceed to Question 17.

Failure to Engage in the Interactive Process

17. Was FedEx an employer?

Yes _____ **No** _____

18. Was Prado an employee of FedEx?

Yes _____ **No** _____

If your answer to either Question 17 or 18, or both, is “No,” then please proceed to Question 25. If your answer to both Questions 17 and 18 is “Yes,” proceed directly to Question 19.

19. Did Prado have a disability?

Yes _____ **No** _____

If your answer to Question 19 is “No,” then please proceed to Question 25. If your answer to Question 19 is “Yes,” proceed directly to Question 20.

20. Did Prado request that FedEx make reasonable accommodation for his disability so that he would be able to perform the essential job requirements?

Yes _____ **No** _____

If your answer to Question 20 is “No,” then please proceed to Question 25. If your answer to Question 20 is “Yes,” proceed directly to Question 21.

21. Was Prado willing to participate in an interactive process to determine whether reasonable accommodation could be made so that he would be able to perform the essential job requirements?

Yes _____ **No** _____

If your answer to Question 21 is “No,” then please proceed to Question 25. If your answer to Question 21 is “Yes,” proceed directly to Question 22.

22. Did FedEx fail to participate in a timely, good-faith interactive process with Prado to determine whether reasonable accommodation could be made?

Yes

No

If your answer to Question 22 is “No,” then please proceed to Question 25. If your answer to Question 22 is “Yes,” proceed directly to Question 23.

23. Was FedEx's failure to participate in a good-faith interactive process a substantial factor in causing harm to Prado?

Yes

No

If your answer to Question 23 is “No,” then please proceed to Question 25. If your answer to Question 23 is “Yes,” proceed directly to Question 24.

24. What are Prado's damages (beyond any damages already awarded)?

a. Past economic loss:

Lost earnings: \$ _____

Medical expenses: \$ _____

Other past economic loss: \$ _____

Total Past Economic Damages: \$ _____

b. Future economic loss:

Lost earnings: \$ _____

Medical expenses: \$

Other past economic loss: \$ _____

Total Future Economic Damages: \$ _____

c. Past noneconomic loss, including physical pain/mental suffering:

\$ _____

d. Future noneconomic loss, including physical pain/mental suffering:

\$ _____

TOTAL: \$ _____

Please proceed to Question 25.

Wrongful Termination

25. Was FedEx an employer?

Yes _____

No _____

26. Was Prado an employee of FedEx?

Yes _____

No _____

If your answer to either Question 25 or 26, or both, is “No,” then please proceed to Question 31. If your answer to both Questions 25 and 26 is “Yes,” proceed directly to Question 27.

27. Did FedEx fail to accommodate and ultimately discharge Prado?

Yes _____

No _____

If your answer to Question 27 is “No,” then please proceed to Question 31. If your answer to Question 27 is “Yes,” proceed directly to Question 28.

28. Was Prado’s disability a substantial motivating factor in FedEx’s decision to terminate him?

Yes _____

No _____

If your answer to Question 28 is “No,” then please proceed to Question 31. If your answer to Question 28 is “Yes,” proceed directly to Question 29.

29. Was FedEx’s failure to provide an accommodation and subsequent discharge a substantial factor in causing harm to Prado?

Yes _____

No _____

If your answer to Question 29 is “No,” then please proceed to Question 31. If your answer to Question 29 is “Yes,” proceed directly to Question 30.

30. What are Prado’s damages (beyond any damages already awarded)?

a. Past economic loss:

Lost earnings: \$_____

Medical expenses: \$_____

Other past economic loss: \$_____

Total Past Economic Damages: \$_____

b. Future economic loss:

Lost earnings: \$ _____

Medical expenses: \$ _____

Other past economic loss: \$ _____

Total Future Economic Damages: \$ _____

c. Past noneconomic loss, including physical pain/mental suffering: \$ _____

d. Future noneconomic loss, including physical pain/mental suffering: \$ _____

TOTAL: \$ _____

Please proceed to Question 31.

Harassment and Hostile Work Environment

31. Was Prado an employee of FedEx?

Yes

No

If your answer to Question 31 is “No,” then please proceed to Question 40. If your answer to Question 31 is “Yes,” proceed directly to Question 32.

32. Was Prado subjected to unwanted harassing conduct because of his disability?

Yes

No

If your answer to Question 32 is “No,” then please proceed to Question 40. If your answer to Question 32 is “Yes,” proceed directly to Question 33.

33. Was the harassment severe or pervasive?

Ves

No

If your answer to Question 33 is “No,” then please proceed to Question 40. If your answer to Question 33 is “Yes,” proceed directly to Question 34.

1 34. Would a reasonable disabled person in Prado's circumstances have considered
 2 the work environment to be hostile or abusive?
 3 _____ Yes _____ No

4 If your answer to Question 34 is "No," then please proceed to Question 40. If your answer to
 5 Question 34 is "Yes," proceed directly to Question 35.

6 35. Did Prado consider the work environment to be hostile or abusive?

7 _____ Yes _____ No

8 If your answer to Question 35 is "No," then please proceed to Question 40. If your answer to
 9 Question 35 is "Yes," proceed directly to Question 36.

10 36. Did FedEx or its supervisors or agents know or should they have known of the
 11 harassing conduct?

12 _____ Yes _____ No

13 If your answer to Question 36 is "No," then please proceed to Question 40. If your answer to
 14 Question 36 is "Yes," proceed directly to Question 37.

15 37. Did FedEx or its supervisors or agents fail to take immediate and appropriate
 16 corrective action?

17 _____ Yes _____ No

18 If your answer to Question 37 is "No," then please proceed to Question 40. If your answer to
 19 Question 37 is "Yes," proceed directly to Question 38.

20 38. Was the harassing conduct a substantial factor in causing harm to Prado?

21 _____ Yes _____ No

22 If your answer to Question 38 is "No," then please proceed to Question 40. If your answer to
 23 Question 38 is "Yes," proceed directly to Question 39.

24 39. What are Prado's damages (beyond any damages already awarded)?

25 a. Past economic loss:

26 Lost earnings: \$ _____

27 Medical expenses: \$ _____

28 Other past economic loss: \$ _____

Total Past Economic Damages: \$ _____

b. Future economic loss:

Lost earnings: \$ _____

Medical expenses: \$ _____

Other past economic loss: \$ _____

Total Future Economic Damages: \$ _____

c. Past noneconomic loss, including physical pain/mental suffering: \$ _____

d. Future noneconomic loss, including physical pain/mental suffering: \$ _____

TOTAL: \$ _____

Please proceed to Question 40.

Failure to Prevent Discrimination

40. Did FedEx fail to take all reasonable steps to prevent the harassment, discrimination and retaliation?

Yes

No

If your answer to Question 40 is “No,” then please proceed to Part C. If your answer to Question 40 is “Yes,” proceed directly to Question 41.

41. Was FedEx's failure to prevent the harassment, discrimination and retaliation a substantial factor in causing harm to Prado?

Yes

No

If your answer to Question 41 is “No,” then please proceed to Part C. If your answer to Question 41 is “Yes,” proceed directly to Question 42.

42. What are Prado's damages (beyond any damages already awarded)?

a. Past economic loss:

Lost earnings: \$

Medical expenses: \$

Other past economic loss: \$

Total Past Economic Damages: \$ _____

b. Future economic loss:

Lost earnings: \$ _____

Medical expenses: \$ _____

Other past economic loss: \$ _____

Total Future Economic Damages: \$ _____

c. Past noneconomic loss, including physical pain/mental suffering: \$ _____

d. Future noneconomic loss, including physical pain/mental suffering: \$ _____

TOTAL: \$ _____

Part C. PUBLIC POLICY

Discrimination in Violation of Public Policy

43. Was FedEx an employer?

Yes

No

If your answer to Question 43 is “No,” then stop here, answer no further questions, and have the foreperson sign and date this form. If your answer to Question 43 is “Yes,” proceed directly to Question 44.

44. Was Prado discharged?

Yes

No

If your answer to Question 44 is “No,” then stop here, answer no further questions, and have the foreperson sign and date this form. If your answer to Question 44 is “Yes,” proceed directly to Question 45.

45. Were Prado's disability, his request for an accommodation, and the fact that he filed complaints with the EEOC substantial motivating reasons for FedEx's decision to discharge him?

Yes

No

If your answer to Question 45 is "No," then stop here, answer no further questions, and have the foreperson sign and date this form. If your answer to Question 45 is "Yes," proceed directly to Question 46.

46. Did the discharge cause Prado harm?

Yes

No

If your answer to Question 46 is “No,” then stop here, answer no further questions, and have the foreperson sign and date this form. If your answer to Question 46 is “Yes,” proceed directly to Question 47.

47. What are Prado's damages (beyond any damages already awarded)?

a. Past economic loss:

Lost earnings: \$ _____

Medical expenses: \$ _____

Other past economic loss: \$ _____

b. Future economic loss:

Lost earnings: \$

Medical expenses: \$ _____

Other past economic loss: \$ _____

Total Future Economic Damages: \$ _____

c. Past noneconomic loss, including physical pain/mental suffering:

\$ _____

d. Future noneconomic loss, including physical pain/mental suffering:

\$ _____

TOTAL: \$ _____

1 Please have the foreperson sign and date this form.
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Dated: _____

PRESIDING JUROR

5 After this verdict form has been signed and dated, notify the court that you are ready to present
6 your verdict in the courtroom.

7 **IT IS SO ORDERED.**

8 Dated: September 30, 2014

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10 PAUL S. GREWAL
11 United States Magistrate Judge
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